

**MINUTES
GAMING ADVISORY COUNCIL**

*December 3, 2003
Scott Hart Auditorium
Helena, Montana*

Please note: This is a summary of the Council meeting. The meeting in its entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

COUNCIL MEMBERS PRESENT

Senator Dale Mahlum, Chairman	Steve Morris
John Tooke	Bill Thomas
Pam Kennedy	Rep. John Witt
Tim Carson	Kevin Howlett
Nick Murnion, Excused Absence	

DIVISION STAFF PRESENT

Gene Huntington	Ben Kamerzel
Rick Ask	Cregg Coughlin
Kathy Baertsch	Kathy Fisher

SUMMARY OF COUNCIL ACTION

- ◆ **Attorney General McGrath thanked the Council for their time and effort.**
- ♠ **The New Games Subcommittee recommended 6 changes including additional poker games for video draw poker machines and second screen bonuses; and a motion passed unanimously to increase the session bingo payout limit to \$3,000.**
- ♣ **The Council viewed a presentation by Bearing Point: Technology Options for Video Gambling in Montana – final report to be submitted prior to next meeting.**
- ♥ **Sen. Mahlum appointed an Indian Gaming subcommittee: Kevin Howlett, Chairman, Pam Kennedy and Bill Thomas.**
- ◆ **The Council tentatively set the next meeting in Helena on March 18, 2004.**

CALL TO ORDER AND ROLL CALL

Chairman Mahlum called the meeting to order at 9:00 a.m. All members were present except for Nick Murnion, who was excused. The minutes from the October 3, 2003 meeting were adopted unanimously.

ATTORNEY GENERAL MIKE MCGRATH

Montana Attorney General, Mike McGrath addressed the Council. Attorney General McGrath thanked the Council for their time and effort. Attorney General McGrath stated that the Bearing Point recommendations will allow us to take advantage of the technology available in today's market place and that through this study we have learned that "one size doesn't fit all."

OVERVIEW OF INDIAN GAMING REGULATORY ACT

Sen. Mahlum recognized and thanked all people from the sovereign nations for attending the meeting. Tribal members who intended to testify introduced themselves.

Gene Huntington, Gambling Control Division Administrator, presented a brief summary of the Indian Gaming Regulatory Act (IGRA). IGRA became law in 1988, and the goals included the promotion of economic development and self-sufficiency for tribes. IGRA and the federal Johnson Act prohibit Class III gaming on reservations by Indians or non-Indians unless the state and the tribe have entered into a compact. Class III gaming includes all casino-style gaming, including video gambling machines. Mr. Huntington explained that a constitutional provision that only allows gambling specifically authorized by the legislature or a vote of the people is the basis of the state's gambling policy. He added that because the legislature has set limits on types of games, payouts, bets and the way games can be played, state negotiators have concluded that the state's policy is to limit gambling to the types authorized by the legislature. The state's position has been that the tribes can have more liberal 'conditions of play' but the executive branch cannot negotiate gambling activities prohibited by state law. Mr. Huntington explained that the state must negotiate in good faith. He further explained that for the state to agree to the scope of gaming being requested by the tribes, legislation would be required to amend state gambling laws and provide an exception for tribes with gaming compacts. Exceptions could include allowing higher payouts or allowing tribes to offer blackjack, slot machines and roulette.

Mr. Huntington provided an update on the current status of tribal compacts and negotiations.

Sarah Bond, Assistant Attorney General, explained that she has been involved in compact negotiations since 1994. Ms. Bond stated that the range of legislative possibilities for change is very broad.

SOVEREIGN NATIONS TESTIMONY

Gilbert Birdinground, Crow Reservation, thanked the Council for allowing the Tribe to express the concerns of the Crow Reservation with the Council. He stated that one of the major concerns that the Crow have is that the number of machines is restricted in the compact. Mr. Birdinground advised the Council that he attended an economic summit

meeting in Billings last summer and a report stated that Bighorn County has one of the highest unemployment rates in the nation. It is very difficult to offer employment to a lot of the tribal members, the casino is like an employment office and Mr. Birdinground stated that if the Tribe could get some sort of expansion with the number of machines in the casino, he feels that it would help out with the unemployment rate in their community. Mr. Birdinground believes that when non-Tribal casino employees pay state taxes it enhances the economic future of the community. Mr. Birdinground believes that with some form of expansion on the Crow Reservation, they would be able to help the community as a whole. One of the things the Tribe is interested in is riverboat gambling. Mr. Birdinground would like the Council to address some of these issues. He advised the Council that at the last conference the National Indian Gaming Commission had in Phoenix, Arizona, there are some new machines on the market that are classified as Class II, but if you look at these machines they operate very similarly to slot machines. He stated that technology is growing fast and we need to keep abreast of some of the machines that are coming up. He added that the Tribe is still undecided as to the legal ramifications of these machines. Mr. Birdinground explained that one of the other issues is liquor on the Crow Reservation.

Carole Langford, Salish & Kootenai, read the Tribe's position statement concerning Class III gaming. Ms. Langford stated that the State needs to honor the original intent of IGRA and to the extent that legislation can be introduced to further this goal her Tribe will support it. She emphasized that the Tribe's preference would be a change that allows tribal government's a measurable economic advantage over other non-governmental gaming operations. Ms. Langford said that the past limited increases in numbers of machines and prize limits have proven relatively ineffective at generating any measurable advantage. The Tribes would like to offer different types of games with substantially increased prize limits. Ms. Langford believes that allowing tribes to offer different types of games could generate the economic advantage needed to produce a meaningful benefit and self-sufficiency to tribal government. Ms. Langford stated that the Tribes would support a legislative exemption for tribes that would allow the State and the tribes the freedom to negotiate for expanded terms such as banking games.

Randall McDonald, attorney for the Salish & Kootenai Tribes, explained that when negotiating these compacts you have to take into consideration what the gaming industry can offer. He stated that simply negotiating a higher payout doesn't automatically give you some economic advantage. One of the pitfalls is what the industry actually can and will provide you once it is negotiated. It has been extremely difficult to get the manufacturers interested in producing pay tables and computer programs to match what has been negotiated. Only one company has generated a program that will allow for the higher payouts and that took quite awhile. Mr. McDonald believes that other types of games would offer the tribes the ability to draw people in be more successful in their gaming endeavors. Mr. McDonald advised the Council that his Tribe is not looking exclusively at gaming as a savior for the economic problems on the reservation. Gaming represents only one opportunity to look for increased revenue. Mr. McDonald stressed that he believes that no Tribe or the State, should simply rely on gaming as the cure-all

for economic woes. He does believe that it can and should be an important part of economic development.

Bob Goeche commented that 11 years ago the Tribes opened KwaTaqNuk Resort, this resort, even with its limited amount of gaming has made a very positive impact on the surrounding community. Mr. Goeche believes that the intelligent development of Indian gaming can help the economy as a whole.

Mr. Tooke asked Mr. McDonald to expand on the concept of legislative expansion. Mr. McDonald explained that a new statute in the code that would provide some specific expansion in gaming that the Governor and the negotiating team could offer to the Tribes. He believes that there could be distinct opportunity in expanding house banking card games such as blackjack.

Ms. Langford commented that the Tribe is looking at Class II gaming because they don't need a compact for that.

Kevin Howlett stated that this is a good opportunity for everyone to become aware that that if a manufacturer can't deliver a product to you, what is gained by putting all the effort into getting to that point? Mr. Howlett stated that if gambling on the reservations is done right, it can create significant improvements for tribal infrastructure, as well as public infrastructure on the reservation including educational programs, and programs that deal with neglected and abandoned children, but the opportunities have to be created for that to happen.

Robert McAnally, Assiniboine Tribes, Fort Peck Reservation, thanked the Council for providing this opportunity for the Tribes to speak with the Council about gambling in Indian Country in Montana. He stated that the Tribes have previously tried to offer up legislation that would change the scope of gaming in Montana on Indian Reservations. Mr. McAnally explained that they spent a lot of time and money and a lot effort and did a number of studies that showed succinctly, clearly, and factually that a scope of gaming change for Indian reservations in Montana would be a tremendous economic boon, for not only the Indian people, but all the non-Indians in the surrounding regions. In the early attempts at legislation the tribes offered the State a percentage of the profits from those games that would have been a change in the scope of gaming, slot machines and blackjack, up to 10% was offered, at one point. Mr. McAnally stated that this idea might be a lot more interesting to the State now since the State's coffers are also in need of a boost.

Mr. McAnally stated that the Tribes could go the initiative/referendum route, which is very costly and time-consuming. Mr. McAnally stated that gambling is not an economic engine for any tribe in Montana because at this point Indian gaming is charitable gaming, it is essentially not for profit because there are huge restrictions from IGRA on the way that Tribes can spend their money, which is completely opposite from the state privateers who are in gambling who require a state license to operate their gambling machines. Mr. McAnally stated that gambling is a sovereign issue for both Tribes and the State. Class II

gaming is of extreme interest to Indian Tribes all over the United States especially Montana now.

Mr. McAnally stated that the Tribe would like to rely on gambling as an economic venture that the Tribes can get into. At Fort Peck the Tribe has been involved for a dozen years for gambling and they allow individual Indians to become licensed by the Tribes and to operate 20 or less machines in their convenience store or bar or whatever. The Tribe has one small operation in Poplar and there is an operation licensed by the Tribes in Wolf Point, but the Tribe receives little revenue, if any, from there. Throughout all that the Tribes have less than 100 gaming machines that they operate and they only employ 10 people in gambling, including the gaming director, technicians and cashiers. Mr. McAnally explained that gambling has not been an economic engine for his Tribe. The Tribe has spent the money the way IGRA requires by helping to build the tribal infrastructure, mostly helping the elderly, medical bills and things of that nature. Mr. McAnally believes that through a concerted effort, that if the legislators see that the Tribes, Council etc. are working together to try to improve the status of gaming in Montana, particularly Indian Gaming, because it is a potential economic boost to the State of Montana, also in terms of taxes paid by non-employees, maybe revenue sharing with certain games, then we can make some progress. Mr. McAnally believes that at this time the payouts are too close together for the Tribes to have an advantage, and the scope of gaming is the same; higher payouts do not give you advantages in gaming, they just give you the opportunity to offer more lucrative gaming but if you are only dealing with local gamblers, which is what Fort Peck deals with mostly, higher payouts are a disadvantage to the establishment. Fort Peck will only offer higher payouts on a few machines.

Mr. McAnally hopes that the Tribes can get together and come together with a concerted effort to approach the legislature. Mr. McAnally stated that he has never understood the State's reluctance to allow the Tribes to play blackjack, when poker is a much more notorious game. He believes that the State thinks that blackjack will attract a more criminal element, but that it has never been shown to him why the State won't allow blackjack. Mr. McAnally believes that the economic issues need to really be studied carefully, and the Tribes could do that now with the wherewithal and information available to them.

Rep. Witt asked what, instead of higher payouts, could be done to create an advantage. Mr. McAnally responded that the ability of the Tribal Nations to offer those games that are "more familiar" to the American touring public, like blackjack and slot machines or video line-ups. He stated that, even though they can offer \$1,500 payouts, it costs more to program the machines and the sites are so small, and don't make enough money, that if 2 or 3 - \$1,500 payouts are hit in one day, that business will be way in hole and they have to scramble to get back. The Tribes just don't have the games to pull people off the highway.

Rep. Witt asked if they would have been better off staying at \$800 payouts? Mr. McAnally stated that he doesn't believe that but that it is the lack of ability to change the

customer's attitudes and pull people off the highway. There needs to be a lucrative enough way to entice people to come into the small facility to gamble because they can win \$1,500 in some of the machines or they can win \$800 like they can down the road in any state-licensed casino. Mr. McAnally believes that it should be the Tribe's decision on how many games they should be able to offer and what the payouts should be; it is a sovereignty issue, an economic issue. Since the Tribes are putting up the money for the games and the payouts then they should be ones to decide how many games they can offer and how much money they can payout. He does not believe that this is a scope of gaming issue and that the State should allow these decisions to be up to the Tribe.

Bill Thomas asked what a video line-up is? Mr. McAnally stated that in Canada the games are all electronic computerized games that are connected by electronic computers and they have electronic screens that look and sound like slot machines.

John Tooke stated Mr. McAnally indicated that enhanced payouts aren't necessarily beneficial yet, Mr. McAnally indicated that the level of payouts and the number of machines should be sovereign tribal issues; Mr. Tooke thought that was a contradiction. Mr. McAnally responded that the number of machines operated by Tribes, except for the individually Indian operated establishments, should be a tribal decision, because it is an economic decision, not a scope of gaming decision; the level of payouts should also be a tribal decision for the same reason. Mr. Tooke asked if the Tribe could make those decisions, what would be the result? Mr. McAnally reminded Mr. Tooke that the Tribes cannot be lumped together, but if his Tribe had that opportunity, the Tribe would seriously consider building a new casino complex on highway 2 that would possibly offer 500 poker and keno games, an unknown number of Class II games; the Tribe could link those together to have real progressives that go more than \$1,500. The Tribe should make that decision because when a winner wins in their casino, they have to pay them, not the State. It would be an economic decision based on Tribal studies, traffic studies etc.

Sen. Mahlum asked if the Tribe is successful with a Class III compact, and if the Tribe could do what it wants to do, would it benefit his Tribe by building a new casino and offer other types of gaming; is there the population to make it work? Mr. McAnally responded that they would be able to attract more population because with casinos come all kinds of related businesses. Tribes in the northern part of the state have not been able to take advantage of the tremendous tourism attraction that Montana is. Even the tribes on the interstate need help in attracting tourists and gambling is one way to do that.

Roger Running Crane, Blackfeet Tribe, thanked the Council for allowing them to come and voice their concerns on Indian Gaming in the State of Montana. Mr. Running Crane stated that his tribe has attempted to work out a compact with the state several times; the sticking point was jurisdiction. Mr. Running Crane stressed that all Tribes are unique in their own way, in other words, what's good for the Flathead is not good for the Blackfeet Reservation and vice versus. "When it comes to negotiations, it is a cookie-cutter approach that the State throws on the table, and this is what you are going to get." Mr. Running Crane states that he interprets IGRA to speak to Indian Tribes only; it doesn't

speak to non-members; if it comes to individuals that is up the Tribe to recognize and give these people the right to have machines. Mr. Running Crane explained that these factors are why the Blackfeet do not have a compact with the State of Montana. The Blackfeet had a gaming ordinance in the 1960s that regulated all types of gaming on the reservation. The Blackfeet feel that when it comes to the negotiation portion, their hands are tied; they don't have the opportunity to really express what they want out of that; the number of machines is a big factor.

Mr. Howlett asked if not having gaming has had an impact on the tourist communities of St. Mary's and East Glacier? Mr. Running Crane responded that not having gaming has not impacted those communities at all. Mr. Howlett asked if their businesses would be enhanced if gaming operations were available. Mr. Running Crane did not think it would be enhanced because if there were gaming it would be only tribally owned. The Tribe would not permit non-Indian gaming.

Ervin C. Carlson, Blackfoot Council member, explained that gaming in those communities might enhance the other businesses but that those businesses don't contribute to taking care of the Blackfeet people. The Tribe is looking at gaming to be exclusive to the Tribe because the Tribe is taking care of their own people. Mr. Carlson explained that with the level of poverty on the reservation the Tribe needs to look for more things to take care of their people; it would make it easier on the State of Montana's welfare system. The Tribe needs to look at all available options to help their people; create jobs; the small Class II gaming operation employs 40 people. Mr. Carlson believes that the Tribe should be able to get the type of gaming that would attract people. Mr. Carlson emphasized that each tribe is an individual and each has different resources, and specific needs.

Charlene Alden, Northern Cheyenne Tribe, thanked the Council for listening to the Tribes. Ms. Alden stated that she had met with the Governor a month ago and talked about Indian gaming and explained to the Governor's staff that they don't really have negotiations; the Tribes are just told what they can have and basically take it or leave it. Ms. Alden believes that there are no good faith negotiations. Ms. Alden explained that since the Northern Cheyenne have had a compact, they have had question-free audits; the NIGC comes to the reservation every three to six months and review the MICS (Minimum Internal Control Standards); make sure there are cameras and that all rules are being followed; how the revenue is spent – make sure it goes to the Tribe in education, health, welfare; and makes sure they have background checks on employees. They have to jump through all the federal and state hoops, but Ms. Alden believes that the federal government takes their sovereignty away by telling the Tribe that they have to negotiate with the State of Montana. Ms. Alden stated that she believes that the Tribe should be able to have as many machines as they want and payout what they want. Ms. Alden stated that the Northern Cheyenne Reservation is very isolated in southeastern Montana. They have a 500 seat bingo hall; 100 seat video games; 40 seat restaurant; \$1,500 payouts; and they employ 44 people. Ms. Alden explained that 50% of the net profit goes to the Tribe and it gets put into education and other programs, but the Tribe wants economic development. Ms. Alden stated that they want slot machines; but if they can't

have them they want to know why the payouts are regulated so highly, or how many machines they can have. Ms. Alden wants to be able to come to the negotiation table and have true negotiations, instead of being told what they can have. Ms. Alden said that if they could have slots, they would be willing to do paper payouts. No individuals have gaming on their reservation.

Steve Morris asked what happens to the other 50% of the net income. Ms. Alden explained that the other 50% stays with the casino for expenses, to upgrade the facility, and to purchase new machines.

Roger Snake, Northern Cheyenne operations manager, commented on other successful gambling operations in the country and stated that the Northern Cheyenne gaming income goes towards youth, elders, health and education.

Tim Carson asked about Class II gaming devices on the reservation. Ms. Alden stated that the Tribe is going to have Class II devices running again in January; Class II devices are bingo, progressive bingo with other tribes and other states.

Rep. Witt commented that the Council has heard today that each Tribe is individualistic; he then asked Ms. Alden to compare the Northern Cheyenne situation with the Crow. Ms. Alden commented that the Northern Cheyenne is a small tribe that is very rural and the Tribe still makes money, enough money to build a casino; the Crow is more centrally located on the interstate. Rep. Witt then asked how effective the Tribes have been with direct contact with the legislature? Ms. Alden responded that she is not aware of any with the Northern Cheyenne; they just negotiate with the Governor's negotiation team. Ms. Alden said that the Legislature states that they can't have slots, but where does it say they can't have progressives that will run up to \$20,000 or more? Sen. Mahlum stated that the Legislature will have the final say on these questions; the Governor's office can only negotiate what is legal in state law. Sen. Mahlum recommended that if the Tribes want to go before the Legislature all seven sovereign nations should combine together; that way they will make inroads that if the Tribes go individually. Ms. Alden stated that her goal is to have open gambling on the Northern Cheyenne Reservation, however it comes about; even if they have to go to the Department of the Interior at the Federal level.

Urban J. Bear Don't Walk, Attorney for the Crow Tribe, asked if the Northern Cheyenne want slots? Ms. Alden responded that they do want slots. Mr. Bear Don't Walk stated that the compacts give the appearance that the participants are satisfied; he then asked what can a person do for their Tribe with those agreements to show that the Tribe is not necessarily satisfied with the whole thing? Ms. Alden responded that the Gaming Commission oversees the gaming and has minutes from their meetings that shows when they have discussed the State compact, what happened. Mr. Bear Don't Walk stated that there should be something in the compacts themselves that shows the dissatisfaction that the Tribes have expressed at today's meeting.

Pete Lamere, Chippewa-Cree Tribe, Rocky Boy Reservation, Tribal Councilman, Gaming Commission Chairman, stated that they have a little mom and pop casino on their reservation, south of Box Elder (13 miles off of the highway); they are planning to build a new casino next summer near highway 87. Mr. Lamere explained that he is against taking the state compacts to the Legislature because if there is an issue with a compact his Tribe does not want to wait two years for resolution from the Legislature. Mr. Lamere commented that he does not like the negotiation process or being stuck with keno and poker machines; IGRA was set up for the Tribes, not for the State to dictate to the Tribes what should happen; two issues in IGRA are left open: the amount of machines and the payouts. Mr. Lamere believes that those issues should be left up to the Tribes and done either through a feasibility study or however the Tribes want to do it; the Tribes are governments and would like to be treated accordingly; they should not be treated like city or county governments. Mr. Lamere stated that he believes that his Tribe is going to challenge the State on a couple of compact issues; they will go to the Secretary of the Interior if they don't get their way in the negotiations.

Mr. Lamere stated that keno and poker machines get boring; they bought some Spielo machines for the entertainment value; the Tribe would like to get some poker machines with three decks on them. The Tribe would also like for there to be no limits on card tournament payouts; Mr. Lamere has heard of \$8,000 tournament payouts in the state. Mr. Lamere believes that gambling is an opportunity for his Tribe to generate some money; the Tribe would like some other opportunities to make money to create jobs for the Tribe. Mr. Lamere stated that each of the individual Tribes has their own stance on gaming and has a different situation; some tribes may not believe strongly in gaming and for some it is not a real issue; legally they are all concerned with what happens.

Mr. Howlett observed that each Tribe testifying at this meeting has commented on the uniqueness of their Tribe and that the "cookie-cutter" approach doesn't work. Mr. Howlett believes that as a State the Council needs to find out what kinds of options and opportunities are available notwithstanding the fact that Montana's Tribes are citizens of the state also, and there is an obligation to them and to the non-Indian operators. The State needs to figure out how to make IGRA work to create an economic stimulus and opportunity in Indian Country.

Mr. Lamere commented that he hopes that the people of Montana will not be threatened that the Tribes are trying to create another Las Vegas on the reservations – the population is not there, but the Tribes would like to have a nice place that people can enjoy and make it worth their while.

Pam Kennedy commented that city and county governments have the same types of problems and issues; a charter form of government can make their community be what they need it to be; Ms. Kennedy agreed that the cookie-cutter approach does not work; and there has to be the ability to work within each individual community. Ms. Kennedy stated that each Tribe has emphasized today that the number of machines and payouts are insufficient; there is a lot of commonality in that regard, and perhaps with the support of the Council perhaps Legislation can be proposed that will work individually.

Sen. Mahlum stated that the Council will be able to pass on the Tribe's concerns, but the Council is not able to legislate the Tribe's concerns; the Tribes need to come together and propose legislation to help solve some of the problems.

Mr. Carson requested that the Department give the Council a breakdown of the size and magnitude of gaming on each reservation (details on the current compacts: total # of machines on reservation, total # of locations, tribal/non-tribal locations, maximum payouts, bingo (limitations on payouts), Class II gaming, etc.).

Mr. Howlett requested that the Department break out the issues that have been articulated at this meeting, payouts, number of machines; and whether or not that is attributable to policy, statute or to regulation or a combination thereof. Mr. Howlett also requested that an interim committee be appointed to review today's testimony to bring options forward to the Council to consider supporting as legislation.

Sen. Mahlum assured those present that the minutes would be compiled as soon as possible and forwarded to each Council member and then the subcommittee will work on these issues.

Rep. Witt asked what is meant by a "level playing field?" Mr. Bear Don't Walk responded that it is an ideal and very difficult to define; but the field is not level at this time. Randall McDonald stated that the phrase originated from former Governor Racicot; there needed to be a level playing field involving gaming within the state. Mr. McDonald does not believe that the concept of the level playing field was the intent of IGRA – the intent of IGRA was to give Tribal governments an economic advantage in order to generate revenue to support the governmental infrastructure.

Rep. Witt asked about card tournament payouts. Mr. Ask explained that the tournament prize is not per hand, it is for the whole tournament and the pot cannot exceed \$300 per hand played during the tournament.

BEARING POINT PRESENTATION

Charlie Meredith presented the BearingPoint presentation. Mr. Meredith had four basic recommendations. The first recommendation is required for all the recommendations – (1) The Gambling Control Division needs to develop and implement a "back end" database compatible for electronic data. This would involve modifying the existing database to accept electronic data file via an Electronic Data Capture system and the development of a Web entry "buffer" that will format input data into electronic data files. The Overall costs depend upon the degree of sophistication and the availability of internal resources. (2) Maintain the status quo manual reporting system moving to Web data entry for smaller independent operators (15 or less video gambling machines). Alternative measures need to be investigated to reduce administration errors and audit costs. This group should be encouraged to move to Web data entry over time. (3) Web

Data Entry System for other route operators and large independents. Smaller route operators and large independent operators benefit through streamlined reporting and more efficient audit processes. Audit processes and protocols would still involve manual audits in addition to electronic audit. Records retention will still be required. Mr. Meredith stated that this is very tried and true technology that would give some good benefits. (4) Electronic Data Acquisition System for Large Operators and select Independents structured and managed as a Public Private Partnership (P3). This group has the greatest need for this type of system as well as the capability of funding it. Participation would be voluntary but a critical mass of locations and video gambling machines is required to ensure viability. Large routes would benefit significantly from integrated accounting and cash management. This could be either On-Line, dial-up or dial-in communication options. The service would be provided on a subscription basis based on vgm count; potentially offer a “one-time” capital fee to sign up and then an ongoing monthly or quarterly operations fee (\$50 to \$100 per machine annually). Mr. Meredith stated that this solution offers equity for everyone involved – large operators have the same need as the Division – this system would solve many problems, especially administrative, accounting and integrity issues; these industry groups benefit the most due to their size, dispersion and revenue; the industry would pay for what they want within GCD standards and maintain significant control in design and operations; and the independent system operator ensures integrity and confidentiality of the data. The Division would ensure regulatory compliance through system audits versus manual audits and the “off-budget” structure ensures successful perpetuation. Mr. Meredith explained that the final report and recommendations will be delivered by March 2004.

Mr. Carson asked what would happen if the ten largest operators do not want to participate in the electronic data acquisition system? Mr. Meredith responded that critical mass is needed, several thousand machines, the fewer the locations, the higher the price. Sen. Mahlum asked if information could be disseminated to the Division with the web-based entry system. Mr. Meredith responded that it could – a report would be filled out on a website and submitted.

Mr. Carson stated that there are about 6,000 machines under two different systems – Wand systems, and those operators would like to be able to take that information and transfer it electronically to the Division. Mr. Meredith explained that the electronic data acquisition system is a real time collection of data electronically received and a business can do real time management of the machines, of the cash, time of play, etc. Mr. Tooke asked what advantage there is to the Division to having the real time access to numbers. Mr. Huntington stated that with real time data a record of permanent data is acquired. This would help with problems that are difficult to audit, records are destroyed, lost, etc and this would alleviate that problem. Mr. Meredith stated that with this system regulation is done by computer, right now the Division audits results; it is a whole different way of regulation – making sure that the system is working, rather than people having to keep warehouses full of records. The benefit to the Division is the electronic acquisition of data.

Mr. Tooke asked about the validity of the input data. Mr. Meredith stated that data acquired manually does have a different level of integrity than the level of integrity which is acquired electronically from a machine with no manual intervention.

Mr. Huntington explained that the costs for the “back end” database will be the Division’s responsibility as would development of a web-based system. People will need a pc to communicate with it. Mr. Huntington stated that the industry would need to figure out how to pay for a system that would use electronically acquired information; the State may have to supply an incentive at some point.

Ronda Carpenter, Montana Coin Machine Operators Association, stated that 7 out of 10 of the top route operators are members of her organization; the system that these route operators are using works for them and they have no desire to go out and spend a lot of money on another system; the Wand system comes back to the computer and the information goes into the computer. These companies have invested up to \$50,000 on the systems currently in use, they would like to download the current information from their computers to the state. Ms. Carpenter stated that real time numbers are not important to these route operators. There is no support for anything but a web-based system from these route operators.

Ms. Kennedy asked about the Wand systems and Ms. Carpenter explained that there are 2 systems currently used and that one company would give the State the software needed to accept the data.

Mr. Meredith explained that the final report with recommendations will be finalized prior to the next council meeting.

NEW GAMES SUBCOMMITTEE REPORT

Mr. Tooke thanked the subcommittee members for their hard work. After reviewing the bingo survey the subcommittee recommends that legislation be drafted to provide a \$2,500 session limit and to provide for bingo cards to be played with different patterns, multipliers and hot numbers. The Subcommittee recommends that (1) “Hold’em”, “5 Card Stud”, and “7 Card Stud” be added to the statutory definition of games that can be played on video poker machines; (2) second screen bonuses be allowed in the form of free credits, a multiplier of credits already won or free games to win additional credits; (3) at least 20% of the screen, but not less than 12 square inches but show images that are reasonable representations of the games of bingo, keno and poker; (4) provide the Department with rulemaking authority to develop rules limiting the use of images that might be considered offensive or appeal exclusively to children; and (5) provide general statutory policy on how the game rules and base pay table must be displayed prior to the player inserting money or wagering credits.

Mr. Tooke asked Mike Maroney, VLC if the 12 square inch requirement would be burdensome to the manufacturers and Mr. Maroney responded that it would not be if the requirement was known ahead of time.

Mark Ehli, Big B Bingo, stated that the bingo session limit should be raised to \$3,000; games are limited to \$100/game payout and some nights there are 25-35 games. A motion was made by Mr. Tooke to increase the session limit to \$3,000, the motion was seconded and passed unanimously.

Discussion of the issue paper regarding copyrighted software as an ownership issue was tabled until the next meeting.

A motion was made by Mr. Tooke to vote on the subcommittee's recommendations; the motion was seconded, but Mr. Carson reminded the Council that some of the recommendations are still a work in progress; the motion was withdrawn.

ADMINISTRATORS REPORT

Mr. Huntington advised the Council that 1st quarter fiscal year 2004 tax revenues had increased 3.6% over 1st quarter fiscal year 2003 tax revenues. \$260,945 had been collected as a result of the surcharge. There are 263 locations, 1,716 machines with multi-game agreements. Mr. Huntington stated that at this point there are two issues to consider for legislation – the ban on internet gaming and a general revision bill that includes nonsubstantive changes.

Bill Thomas asked about the proposed shake-a-day rules and Mr. Huntington stated that those rules will be proposed the next time the Division does rules.

FINAL BUSINESS

Sen. Mahlum appointed the following people to the Indian Gaming subcommittee: Kevin Howlett, Chairman, Pam Kennedy and Bill Thomas.

The next meeting will be in Helena, March 18, 2004.